

Remarks/Arguments:

Claims 27-33, 35-45, and 47-55, are pending, with claims 38, 39, 41-45, and 47-55 having been withdrawn from consideration pursuant to restriction.

Claims 1-26, 34, 46, and 56-58 are cancelled, without prejudice or disclaimer.

Claim 27 is presently amended by deleting "or parts of it," from line 2 of the claim. That is, by the instant amendment the subject matter parts of sPLA2 IIA is no longer recited in the claims. Claims 47-55 are amended, hereby, to be dependent on claim 27—instead of claim 46, which is now cancelled.

The Office Action contains an objection to the specification for allegedly failing to provide antecedent basis for claim 34. The objection is incorrect. Support for the subject matter of claim 34 can be found in the present specification (page 5, first paragraph). Accordingly, withdrawal of the objection to the specification appears to be in order.

Claim 34 is rejected under 35 USC 112, second paragraph, as allegedly being indefinite. The rejection is rendered moot by cancellation of claim 34, hereby.

Claims 27-37, 40, 46, and 56 were rejected under 35 USC 112, first paragraph, for allegedly failing to comply with the written description requirement. Reconsideration is requested in view of the changes to the claims effected hereby.

According to the statement of rejection, the claims fail to satisfy the written description requirement of §112, ¶1, with respect to the parts of sPLA2 IIA subject matter. The rejection is

rendered moot by deleting the "parts of" subject matter from the claims. Withdrawal of the rejection appears to be in order.

Claims 34, 46, and 56 were rejected under 35 USC 112, first paragraph, for allegedly lacking enablement. The rejection is rendered moot by cancellation of the rejected claims, hereby.

Claims 27-37, 40, 46 and 56 are rejected under 35 USC 102(b) as allegedly anticipated by WO 98/55504 (Mounier). Reconsideration is requested.

For anticipation under § 102 to exist, each and every claim limitation, as arranged in the claim, must be found in a single prior art reference. *Jamesbury Corp. v. Litton Industrial Products, Inc.*, 225 USPQ 253 (Fed. Cir. 1985). The "absence" from a prior art reference of a single claim limitation "negates anticipation." *Kolster Speedsteel A B v. Crucible Inc.*, 230 USPQ 81, 84 (Fed. Cir. 1986). To anticipate the claim, each claim limitation must "*identically* appear" in the reference disclosure. *Gechter v. Davidson*, 43 USPQ2d 1030, 1032 (Fed. Cir. 1997) (*emphasis added*). To be novelty defeating, a reference must put the public in possession of the identical invention claimed. *In re Donahue*, 226 USPQ 619 (Fed. Cir. 1985).

The PTO alleges that the "hsPLA2 grII" disclosed in Mounier is identical to the secretory phospholipase—sPLA2 IIA—according to the presently claimed invention. According to the PTO *Current Molecular Medicine*, 1, 739-754, 2001 (Touqui) teaches "hsPLA2 grII"—disclosed in Mounier—is another name for "sPLA2 IIA"—recited in the present claims. With all due respect the PTO is mistaken: Mounier's "hsPLA2 grII" is not identical to the "sPLA2 IIA" recited in the present claims.

There are different compound species (i.e., sub-groups) of phospholipase A2, e.g., phospholipase A2 IIa, phospholipase A2 IIc, phospholipase A2 IId, and phospholipase A2 IIe. Moreover, they are distinguishable from one another based on their amino acid composition; and, as such, they are each characterized as separate molecules, as well known in the art (e.g., Kudo, et al., *Phospholipase A2 Enzymes, Prostaglandins & other Liquid Mediators*, 68-69 (2002) 3-58).

Mounier discloses only phospholipase A2 sub-group II, in general. The reference fails to teach (or even suggest) sub-group IIa of phospholipase A2. Accordingly, Mounier does not disclose the identical invention presently claimed.

Since Mounier fails to put the public in possession of the identical invention presently claimed, the reference cannot defeat novelty of the present claims under §102(b). *Donahue, supra*.

Furthermore, Mounier just discloses the effect anticoagulant of a monoclonal or polyclonal antibody (claim 12). Even assuming, arguendo, the Mounier would have enabled the skilled artisan to use the antibody—disclosed in the subject application—for blocking or depleting sPLA2 IIA (as alleged by the PTO), this fails to show that Mounier is an enabling reference. To support a rejection for anticipation

section 102(b) requires that the description of the invention in the printed publication must be an "enabling" description. . . . Unless this condition prevails, the description in the printed publication is inadequate as a statutory bar to patentability under section 102(b).

In re Le Grice, 133 USPQ 365, 373-74 (CCPA 1962). Mounier is not an enabling reference, as required to sustain a rejection under §102(b), because the skilled artisan could not have made the antibody, itself—that blocks or depletes sPLA IIA—in view of Mounier.

For the foregoing reasons, withdrawal of the rejection under §102(b) based on Mounier appears to be in order.

Claims 27, 30, 36, and 40 are rejected under 35 USC 103(a) as allegedly as allegedly unpatentable over Mounier in view of Touqui and *Journal of Immunological Methods*, 168, 149-165, 1994 (Owens). Reconsideration is requested.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art," *In re Wilson*, 165 USPQ 494, 496 (CCPA 1970), "and it is error to ignore specific limitations distinguishing over the [prior art] reference." *Ex parte Murphy*, 217 USPQ 479, 481 (PO Bd. App. 1982). A "ground of rejection is simply inadequate on its face . . . [when] the cited references do not support each limitation of [the] claim." *In re Thrift*, 63 USPQ2d 2002, 2008 (Fed. Cir. 2002).

As explained above, Mounier fails to disclose the antibody for sPLA 2 IIA according to the presently claimed invention. Owens (page 157) discloses a method for expression of engineered antibodies in mammalian cells. Given the teachings of Owens, a person skilled in the art gets the information necessary to manufacture recombinant antibodies. However, Owens fails to teach or suggest—as Mounier fails to do—the specific secretory phospholipase sub-group "sPLA 2 IIA" to which the present claims are limited.

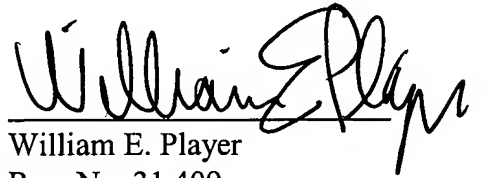
Accordingly, the combined teachings of the references cited in the rejection fail to support the limitation to secretory phospholipase sub-group "sPLA 2 IIA" on the present/rejected claims.

Since "the cited references do not support each limitation of [the rejected] claim[s]," the rejection under §103(a) is "inadequate on its face." *Thrift*, 63 USPQ2d at 2008. The PTO fails to establish *prima facie* obviousness of the rejected claims, because all of the claim limitations are neither taught nor suggested by the combined teachings of the cited prior art. *Royka, supra*. Withdrawal of the rejection under §103(a) appears to be in order.

Favorable action is requested.

Respectfully submitted,

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Date: May 8, 2008
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